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	Up/AB/Mi Mag. André Buchegger	3581	9.3.2020

Response to European Commission`s Consultation on the Draft ETS State Aid Guidelines

Dear Ladies and Gentleman!

We, the Austrian Federal Economic Chamber, respond to the Consultation on the Draft ETS State Aid Guidelines, although **the current ETS State Aid Guidelinies have not yet been implemented in Austrian legislation. This situation is not sufficient from our point of view and leads to heavy disadvantages for the competitiveness of Austrian companies.** Nevertheless, we have been following the issue very closely.

These competitiveness distortions occur on the internal EU markets, compared to competitors in other member states, which make use of the possibility to grant compensation to their industries, **as well as on international level** to competitors in countries with no comparable ambitious climate policies in place, which benefit from power prices without extra CO_2 costs. **Cost disadvantages** stemming from the missing implementation in Austria can amount to **high six-figure to seven-figure sums for Austrian installations**, compared to their competitor just across the border (e.g. Germany). This is a highly unsustainable and indefensible situation that must be highlighted here, as it **causes or supports Carbon Leakage not only against Non-EU countries, but also leads to discriminating and non-justifiable EU-internal production and investment shifts.**

From this point of view, our first and foremost point is that compensation measures for ETS indirect costs in the EU member states should be monitored and assessed as detailed as possible to illustrate the non-uniform and inconsistent implementation of this important instrument. As a next step, the application of the compensation for indirect CO2 costs must be harmonized on EU level in the ETS directive, to avoid distortions of the internal markets. This comes true especially against the background of **rising CO_2 prices** (they have

rapidly increased from about 5 EUR/t CO_2 in mid-2017 to the current level of around 25 EUR/t CO_2).
The **second powerful driver of increasing electricity costs is decarbonisation**, which in many industry sectors and for a wide range of processes means electrification and an increasing electricity demand. The impact of electricity prices will increase substantially, as electricity producers pass their carbon costs on via the electricity price. Thus, it is essential that the new ETS State Aid Guidelines provide full and adequate carbon leakage protection against rising indirect carbon costs.

These arguments highlight that the **new ETS State Aid Guidelines will be key for preserving competitiveness of European energy-intensive industries**, while providing the **incentives to further decarbonize and to contribute to the very ambitious goal of climate neutrality 2050**, in line with the European Green Deal and the EU`s climate agenda. Both, free allocation and indirect cost compensation must ensure that the EU best performers do not face undue direct or indirect carbon costs.

Following this argumentation, and since the issue has recently been integrated in the work programme of the new Austrian government, there are **high hopes that implementation can be expected**. From this point of view, we take the chance to comment the Guidelines, hoping that Austrian companies can benefit from them as well in near future.

Thus, we see particularly the **following elements of the Draft ETS State Aid Guidelines critically and call on the Commission to rethink and improve them:**

- **Restriction of the sectors** deemed to be eligible for compensation to only 8: We stipulate the inclusion not only of the sectors that have been eligible for compensation in the current ETS guidelinies, but also of sectors like Manufacture of refined petroleum products (which have been included in the Draft Guidelines), as well as i.a. cement, brick and glass production (see as an example attached arguments for cement production).

  The explanatory memorandum opens the door for qualitative assessment: The Commission may decide to include additional sectors, in light of the feedback and evidence received in the public consultation, based purely on qualitative considerations provided the sectors concerned have at least an indirect carbon leakage indicator of 0,2 and that their carbon leakage risk as evaluated by the consultant in the study is at least Medium.

- **General limitation of the level of compensation** to 75% stable throughout ETS phase IV, after reducing it already from 85 to 75% in the last ETS period 2013-2020. As a guiding principle, aid intensity should be set at 100% of the benchmark for best performers, in order to be in line with the goals and wording of the ETS Directive. Any level of less than 100% could undermine the effectiveness of Carbon Leakage provisions. In this context, we support the possibility for extra-support for installations in most the most electro-intensive sectors, with particularly high exposure (GVA-cap), as important step to ensure protection.

- **The definition of the geographic regions and the CO_2 emission factors („pass-through-factors“)**, as reference markets for the emission pass-through factor. While we understand that the latter will be defined at a later stage based on available data, the calculation of the factor should be based on electricity market models in order to best reflect the actual impact of CO_2 emission costs on power prices in each market. The proposal of splitting regions in more contradicts the political objective of linking national energy markets. Furthermore, the methodology of defining regional areas (1% price divergence in significant number of hours per day) does not capture the reality of energy markets where the emission pass through factor by neighbouring member states due to interconnections.

Particularly, the Central and West Europe Region (CWE: AT, BE, DE, FR, NL & LU) must be re-established and not be separated in National factors. This is one connected geographic market with price convergence and – largely - common price setting. These are clearly not national areas, as indicated in the Draft proposal (for details, see ENTSO-E Bidding Zone Review, October 2019).

- **The conditionality provisions for compensation,** which – before the background of global competition - are too stringent and not realistic, and might lead to additional carbon and investment leakage if not well designed. In fact, compensation for indirect costs of the EU ETS, aims at reimbursing electro-intensive companies for indirect carbon costs passed on to them in their electricity bill. If compensation is made conditional on additional measures to be taken by a company, such as investments in energy efficiency and emissions reductions, or a carbon free power purchase agreement, de facto it does not represent a reimbursement of incurred indirect carbon costs, since it requires additional expenditures. These proposed conditionality requirements are linked to the enforcement of other pieces of legislation, notably the Energy Efficiency Directive and the Renewables Directive. Based on them. Member States retain the possibility of adopting different instruments to promote energy efficiency and increase the share of renewables to achieve the targets set in those directives. Therefore, the proposed conditionality requirements would overlap and possibly collide with different national measures. In addition, a payback time of 5 years does not reflect the reality of business decisions in those sectors, as it is far too long for energy-/electro-intensive industries with tiny margins. Furthermore, the draft text does not take into account the early measures that companies may have established.

We thank for the possibility to provide feedback and ask you to consider our remarks!

Yours sincerely,

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